

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| Appl. No. | : 10/588,155 | Conf. No. | : 4105 |
| Applicant | : KAGAYA, Makoto | Filed | : August 1, 2006 |
| Examiner | : ZIA, SYED | TC/A.U. | : 2431 |
| Docket No. | : MIY.001.0045.PC | Customer No. | : 58789 |
| Title | : SECRET INFORMATION MANAGEMENT SCHEME BASED ON SECRET SHARING SCHEME | | |

Honorable Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

PETITION UNDER 37 C.F.R. § 1.181

Applicant respectfully petitions the Commissioner and requests that the finality of the Office Action of August 17, 2010 be withdrawn.

The facts are as follows:

1. On March 2, 2010, the Office issued a first non-Final Office Action including a single rejection of claims 1 – 16 under 35 USC § 102.
2. In response to the first Office Action of March 2, 2010, Applicant submitted a reply on June 2, 2010. Applicant's reply of June 2, 2010 included a single amendment to claim 8 to correct a minor grammatical error. Applicant otherwise traversed the rejections under 35 USC § 102.
3. In response to Applicant's reply of June 2, 2010, on August 17, 2010 the Office issued a second Final Office Action maintaining the rejection of claims 1 – 16 under 35 USC § 102 and further including a new rejection of independent claim 16 under 35 USC § 101.

"Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in


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37 CFR 1.17(p).”¹

In the instant case, Applicant respectfully submits that the new grounds of rejection to reject independent claim 16 under 35 USC § 101 (alleged non-statutory subject matter) were not based on information submitted in an IDS, nor were such new grounds to reject independent claim 16 necessitated by an amendment of independent claim 16 – independent claim 16 was not amended in Applicant’s reply of June 2, 2010.

For at least the above reasons, Applicant respectfully submits that the Office erred in making the Office Action of August 17, 2010 final and respectfully requests that the instant petition be granted and the finality of the Office action of August 17, 2010 withdrawn.

Please charge any shortage in fees due in connection with the filing of this paper, including Extension of Time fees, to Deposit Account 14.1437. Please credit any excess fees to such account.

Respectfully submitted,
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Dated: November 17, 2010

¹ MPEP § 706.07(a)